

REMARKS

The present Response is filed in reply to the Office Action of June 15, 2004, which is the first Office Action in the continued examination of the present Application. By way of background, the Request for Continued Examination in the present Application was submitted in response to the Advisory Action of April 30, 2004, which was issued by the Examiner in response to the Response After Final Rejection submitted April 22, 2004 pursuant to 37 CFR 1.116 in response to the Final Official Action mailed February 25, 2004.

Upon filing the Request for Continued Examination and the accompanying Preliminary Amendment, the present Application contained claims 2, 4, 5, 7, 8, 9, 10 and 12 through 16, of which claims 12 through 16 were newly submitted claims.

The Examiner has held that newly submitted claims 12-16 and previously submitted but amended claims 7 and 8 are directed to an invention that is independent of or distinct from the invention originally claimed. The Examiner has further held that the originally claimed invention, which is presently the subject matter of claims 2, 4, 5, 9 and 10, has been the subject of an action on the merits and has thereby been constructively elected for prosecution on the merits, so that claims 7, 8 and 12-16 are held as withdrawn from consideration as directed to a non-elected invention.

In response, therefore, the Applicant has canceled claims 12-16 from the present Application to prosecute claims 12-16 and the related subject matter of claims 7 and 8 in a divisional Application from the present Application. The following will therefore address the prosecution of claims 2, 4, 5, 7, 8, 9 and 10.

It will be noted that, as discussed below, the Applicant has also amended claims 7 and 8 to be dependent from amended claim 10 and as part of the amendments to claim 10 submitted herein, the subject matter of claims 7 and 8 being related to the subject matter of claim 10 as amended herein and well as to the subject matter of canceled claims 12-16.

The Examiner has rejected independent claim 10 and claims 2, 4, 5 and 9 that are dependent from claim 10 under 35 U.S.C. 112 as indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

In this regard, the Examiner first refers to an informality at lines 13-14 of claim 10 regarding the lack of an antecedent basis for "the fluid passage analysis" and comments that the term probably should be "the fluid passage".

In response, the Applicant has amended claim 10 to address the above described grounds for rejection of claim 10 under 35 U.S.C. 112, including deleting the word "analysis" from the term "the fluid passage analysis" to thereby amend the term to be "the fluid passage", which is thereby now in agreement with the existing antecedent basis.

The Examiner has further rejected independent claim 10 and dependent claims 2, 4, 5 and 9 under 35 U.S.C. 112 as indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In particular, the Examiner refers to the recitations in claim 10 regarding the "(record) memory" and the relationship of the "memory" to the remaining limitations with the comment that without a defined relationship between the "memory" and the other elements recited in the claim, the claim is directed to an aggregation of parts rather than to a module or apparatus.

In response, the Applicant has also amended the claim 10 recitations pertaining to the "memory" to clarify and explicitly recite the structural and functional relationships between the "memory" and the remaining elements of the sensor module of the present invention as recited in claim 10. More specifically, the Applicant has amended claim 10 to recite that at least one film sensor is located on a substrate located directly in the flow path of the sensor fluid passage in the sensor module for performing measurements of a fluid sample flowing through the sensor chamber, that the record memory is mounted on the sensor module for storing information relating to the film sensor and to measurements of a fluid sample, and that there is a processing unit connected to the record memory for reading

and writing information pertaining to the sensor module and to the measurements of a fluid sample.

It is the belief of the Applicant that these amendments to claim 10 thereby clarify and explicitly recite the structural and functional relationships between the record memory and the remaining elements of the sensor module such that claim 10 is now explicitly directed to a sensor module rather than to an aggregation of parts, thereby meeting and overcoming the grounds for rejection of claim 10 under 35 U.S.C. 112.

It will be noted that the Applicant has canceled claim 2 in conjunction with the amendments of claim 10, so that claim 2 is no longer under consideration herein.

Remaining claims 4, 5 and 9 are dependent from claim 10 so that the rejection of claim 10 under 35 U.S.C. 112 extended also to claims 4, 5 and 9. As such, it is the belief of the Applicant that the above discussed amendments to claim 10 have also addressed and overcome the grounds for rejection of claims 4, 5 and 9.

The Applicant therefore respectfully requests that the Examiner reconsider and withdraw all rejections of claims 10, 4, 5 and 9 as amended herein under 35 U.S.C. 112, and the allowance of claims 10, 4, 5 and 9 as amended herein.

Lastly, and as discussed above, the Applicant has also amended claims 7 and 8 to be dependent from claim 10 rather than from claim 12 because the subject matter of claims 7 and 8 is not new matter with regard to claim 10, claims 7 and 8 having originally been dependent from claim 1, which has been replaced by claim 10, and because the subject matter of claims 7 and 8 is and originally was related to the subject matter of claim 10, that is, the record memory recited in claim 10.

The Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection of claims 7 and 8 as directed to a non-elected invention and any potential rejection of claims 7 and 8 under 35 U.S.C. 112, and the allowance of claims 7 and 8 as amended herein.

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If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the foregoing, it is respectfully submitted that the raised rejections should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objections or requirements, as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,

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